

P/F

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

PETER FRANCIS and MICHAEL GEORGE,

Plaintiffs,

-against-

ORDER

16-CV-2839 (NGG) (PK)

IDEAL MASONRY, INC.; ROCKY'S  
CONSTRUCTION INC.; and RAKID ("ROCKY")  
VRLAKU,

Defendants.

-----X

NICHOLAS G. GARAUFIS, United States District Judge.

On June 3, 2016, Plaintiffs Peter Francis and Michael George commenced this action against Defendants Ideal Masonry, Inc.; Rocky's Construction, Inc.; and Rakid ("Rocky") Vrlaku, alleging race discrimination and retaliation in violation of 42 U.S.C. § 1981; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.; and the N.Y.C. Admin. Code § 8-101 et seq. Plaintiffs allege that Defendants discriminated against them based on their race and national origin, created a hostile work environment, and wrongfully terminated them in retaliation for their complaints regarding Defendants' discriminatory conduct. (Compl. (Dkt. 1) ¶¶ 28, 33, 38.) Plaintiffs seek back pay, compensatory damages for emotional distress, prejudgment interest, and attorneys' fees and costs. (Pls. Mem. in Supp. of Mot. for Default J. (Dkt. 14-29).)

Defendants have not appeared in this action and have failed to answer or otherwise respond to the Complaint. On October 24, 2016, the Clerk of Court entered default against Defendants. (Clerk's Entry of Default (Dkt. 13).) On May 5, 2017, Plaintiff moved pursuant to Federal Rule of Civil Procedure 55 for default judgment against Defendants (the "Motion"). (Pls. Mot. for Default J. ("Mot.") (Dkt. 14).) The court referred the Motion to Magistrate Judge

Peggy Kuo for a Report and Recommendation (“R&R”) pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1). (May 5, 2017, Order Referring Mot.)

On August 3, 2018, Judge Kuo issued an R&R in which she recommended that the court grant the Motion. (R&R (Dkt. 20) at 27.) Judge Kuo further recommended that “Plaintiff Francis be awarded \$267,551.29 in back pay and \$15,000 in compensatory damages; Plaintiff George be awarded \$339,591.89 in back pay and \$15,000 in compensatory damages; and Plaintiffs be jointly awarded \$16,133.43 in attorneys’ fees and costs.” (*Id.*) Lastly, Judge Kuo recommended that “prejudgment interest be added to each Plaintiff’s total back pay award, and Plaintiffs be permitted to submit updated calculations for their back pay award and prejudgment interest up to the date of judgment.” (*Id.*)

No party has objected to the R&R and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). Therefore, the court reviews the R&R for clear error. See Porter v. Potter, 219 F. App’x 112, 113 (2d Cir. 2007) (summary order) (“[F]ailure to object timely to a magistrate’s report operates as a waiver of any further judicial review of the magistrate’s decision.” (internal quotation marks and citation omitted)); Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at \*1 (E.D.N.Y. Mar. 15, 2010) (“Where no objection to the [R&R] has been filed, the district court need only satisfy itself that there is no clear error on the face of the record.” (internal quotation marks and citation omitted)).

The court has reviewed both the record and the R&R and, finding no clear error, ADOPTS the R&R (Dkt. 20). Plaintiffs’ motion for default judgment (Dkt. 14) is GRANTED. The court AWARDS Plaintiff Francis \$267,551.29 in back pay and \$15,000 in compensatory damages; AWARDS Plaintiff George \$339,591.89 in back pay and \$15,000 in compensatory

damages; JOINTLY AWARDS Plaintiffs \$16,133.43 in attorneys' fees and costs; ADDS prejudgment interest to each Plaintiff's total back pay award; and PERMITS Plaintiffs to submit updated calculations for their back pay award and prejudgment interest up to the date of judgment. The Clerk of Court is respectfully DIRECTED to enter judgment and close this case.

SO ORDERED.

s/Nicholas G. Garaufis

Dated: Brooklyn, New York  
September 4, 2018

NICHOLAS G. GARAUFIS  
United States District Judge